

# United States District Court

SOUTHERN

DISTRICT OF

TEXAS

 United States Court  
 Southern District of Texas  
 FILED

FEB 11 2009

UNITED STATES OF AMERICA

V.

 VILLANUEVA, Julio  
 GONZALEZ, Jesus

Michael N. Milby, Clerk of Court

## CRIMINAL COMPLAINT

CASE NUMBER: C-09-141m

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or February 10, 2009 in BROOKS County, in the Southern District of Texas defendant(s) did, (Track Statutory Language of Offense)

knowingly, intentionally, and unlawfully possess with the intent to distribute a controlled substance in Schedule I of the Controlled Substance Act of 1970, to wit: 100 kilograms (approximate gross weight) of marijuana.

in violation of Title 21 United States Code, 841 (a)(1)

I further state that I am a(n) Special Agent and that this complaint is based on the following

Official Title

facts:

SEE ATTACHMENT "A"

Continued on the attached sheet and made a part

☒ Yes ☐ No
 SA Douglas Griffith  
 Signature of Complainant
Sworn to before me, and subscribed in my presence, *and probable cause found*

Date

February 11, 2009

 at Corpus Christi, Texas  
 City and State

 Brian L. Owsley, U.S. Magistrate Judge  
 Name and Title of Judicial Officer

Signature of Judicial

ATTACHMENT "A"

Julio VILLANUEVA  
Jesus GONZALEZ Jr.

On February 10, 2009, BPA G. Alaniz was performing his assigned traffic inspection duties at the United States Border Patrol Checkpoint located 13 miles south of Falfurrias, Texas. BPA P. Pena and Service Canine Rambo-A were assisting BPA Alaniz. At approximately 2:10 am, a purple tractor/trailer approached the primary inspection area for an immigration inspection of its passengers. BPA Alaniz asked the driver, later identified as Julio VILLANUEVA if he was a United States citizen, and VILLANUEVA replied "Yes." BPA Alaniz noticed an individual lying down in the camper section of the trailer. BPA Alaniz asked VILLANUEVA to wake up the individual who was later identified as Jesus GONZALEZ Jr. BPA Alaniz asked GONZALEZ if he was a United States Citizen and GONZALEZ stated "Yes." BPA Alaniz asked VILLANUEVA if the trailer was loaded and VILLANUEVA replied the trailer was loaded with mixed produce. BPA Alaniz further asked where VILLANUEVA was going to deliver the produce and VILLANUEVA stated he was going to take it to Dallas, Texas. BPA Alaniz asked VILLANUEVA where he had picked up the load of mixed produce and VILLANUEVA stated he and GONZALEZ went to several produce warehouses and picked up produce from different places.

As BPA Alaniz continued to conduct his immigration inspection, BPA Pena and Service Canine Rambo-A performed a non-intrusive free air sniff of the exterior of the tractor/trailer. BPA Pena advised BPA Alaniz that Service Canine Rambo-A alerted to the drain area and rear vents of the tractor/trailer. As BPA Alaniz continued to question VILLANUEVA, VILLANUEVA appeared overly excited and nervously tried to joke with BPA Alaniz. BPA Alaniz asked VILLANUEVA if his tractor trailer could be searched and VILLANUEVA stated "Yes." BPA Alaniz instructed VILLANUEVA to park in the secondary inspection area and VILLANUEVA responded by stating "Oh,OK."

Once in secondary, VILLANUEVA and GONZALEZ were instructed to exit the vehicle while BPA Pena and Service Canine Rambo-A performed a search of the tractor trailer. BPA Pena asked VILLANUEVA if he could open the door of the trailer and search its mixed produce load. BPA Pena further asked VILLANUEVA if he had the key to the lock that was on the trailer door. VILLANUEVA stated "yes", and gave BPA Pena the key to the lock. BPA Pena unlocked the lock and broke off the seal that was also on the trailer door. BPA Pena and his Service Canine Rambo-A searched the trailer and discovered 18 bundles of marijuana, weighing 100 kilograms (approximate gross weight). The marijuana bundles were wrapped in clear cellophane concealed with in card board boxes. The card board boxes were further concealed under five bags of carrots.

VILLANUEVA and GONZALEZ were placed under arrest and escorted inside the check point area and BPA Alaniz as witnessed by BPA Lopez read both individuals their

Miranda Rights in their preferred language of English. VILLANUEVA and GONZALEZ stated they understood their rights and signed the advisement of rights form accordingly.

VILLANUEVA chose not to make any statements to Border Patrol Agents with out the presence of a lawyer.

GONZALEZ agreed to speak with BPA Alaniz with out a lawyer present. Gonzalez stated he had no idea there was marijuana hidden in the trailer, he was a life long friend of VILLANUEVA's, and that he brought VILLANUEVA along to help him earn some money as VILLANUEVA was unemployed. GONZALEZ also stated he did know VILLANUEVA had been arrested in the past for smuggling illegal contraband. GONZALEZ stated he was the main driver and VILLANUEVA was the co-driver, and at around 4:00pm, on February 9, 2009, he and VILLANUEVA stopped at various warehouses in Alamo, McAllen, Mission and Edinburg, Texas and picked up different types of produce. During their last stop in Edinburg, VILLANUEVA took over the driving and VILLANUEVA stopped at a Loves Truck Stop for thirty minutes to fuel up. GONZALEZ stated he went inside to purchase drinks and snacks and VILLANUEVA fueled up the gas tank. VILLANUEVA continued to drive the tractor trailer and GONZALEZ stated he went back to sleep until they arrived at the check point.

On February 10, 2009, SA Douglas Griffith and SA Eric Johnson arrived at the checkpoint and took custody of the investigation. SA Griffith and SA Johnson spoke with GONZALEZ and GONZALEZ maintained the same story as GONZALEZ had told Border Patrol except that GONZALEZ stated that GONZALEZ believed that VILLANUEVA must have put the marijuana on the tractor between their travels from their last stop and stopping at the Love's Truckstop. GONZALEZ went on to state that VILLANUEVA may have put the marijuana in the trailer at the Love's truckstop. SA Griffith then asked GONZALEZ that if GONZALEZ had no knowledge then VILLANUEVA was taking a big chance on being able to get the marijuana on the tractor at some time without GONZALEZ' knowledge. SA Griffith asked if VILLANUEVA was acting weird at all. GONZALEZ stated that "now that you mention it yes, VILLANUEVA seemed like he was in a hurry at times." GONZALEZ then further stated that when they exited the trailer VILLANUEVA stated to GONZALEZ "I am sorry man I am sorry."

SA Griffith and SA Johnson then spoke to VILLANUEVA and VILLANUEVA had changed his mind and wanted to speak without an attorney. VILLANUEVA stated that a friend had called VILLANUEVA and asked VILLANUEVA if VILLANUEVA wanted to make extra money transporting marijuana. VILLANUEVA agreed and called GONZALEZ to see if GONZALEZ was interested as well since GONZALEZ had a tractor and trailer and GONZALEZ agreed. VILLANUEVA went on to state that they were going to be paid \$4,000.00 and were to transport the marijuana to Dallas, TX. VILLANUEVA's story also varied from that of GONZALEZ in that they didn't change drivers until they got to the Love's truckstop. GONZALEZ also did not fall asleep until GONZALEZ had finished eating and they were on the highway towards the checkpoint.

On Wednesday, February 11, 2009, SA Griffith spoke with Fernando Polanco, the owner of the tractor and trailer. Polanco stated that GONZALEZ was not authorized to use a co-driver and that Polanco had no knowledge that VILLANUEVA was on the tractor as well.

AUSA Julie Hampton authorized federal prosecution of VILLANUEVA and GONZALEZ on February 10, 2009.

The amount of marijuana seized infers intent to distribute.